

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 23, 1995

ALL-COUNTY INFORMATION NOTICE NO. I-05-95

TO: ALL COUNTY WELFARE DEPARTMENTS  
ALL COUNTY PROBATION DEPARTMENTS  
ALL COUNTY COUNSELS  
ALL PUBLIC AND PRIVATE ADOPTION  
AGENCIES  
ALL CDSS ADOPTION DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

SUBJECT: 1994 CHAPTERED LEGISLATION AFFECTING THE ADOPTIONS PROGRAM, THE OFFICE OF CHILD ABUSE PREVENTION, THE CHILD WELFARE SERVICES PROGRAM, THE AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE PROGRAM, AND THE FAMILY PRESERVATION AND SUPPORT PROGRAM

This letter summarizes legislation chaptered during 1994 which affects the Adoptions Program, the Office of Child Abuse Prevention, the Child Welfare Services Program, the Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program, and the Family Preservation and Support Program. Unless otherwise noted, the statutes listed will become effective on January 1, 1995. Also, please note that chapter numbers designated with an "X" identify statutes that were initiated during the 1993-94 first extraordinary session of the Legislature.

These summaries are for general informational purposes only. Additional All-County Letters (ACLs) or All-County Information Notices (ACINs) have been or will be issued for some of the statutes to provide more detailed descriptions of specific programmatic issues and necessary implementation activities. For ease of identification, statutes have been listed under the specific program which they impact.

**ADOPTIONS PROGRAM**

Assembly Bill (AB) 2982 (Katz), Chapter 324, Statutes of 1994

This legislation explicitly authorizes the option for having the adoption proceeding for a juvenile court dependent held in the juvenile court if the court finds that adoption is the appropriate permanency plan and the petition for adoption is filed in the juvenile court. The juvenile court is authorized to proceed with the adoption of the dependent minor only after the appellate rights of the natural parents have been exhausted and the preliminary assessment prepared pursuant to Section 366.26 of the Welfare and Institutions Code (WIC) has been read into the record and considered by the court.

AB 3336 (Speier), Chapter 585, Statutes of 1994

This legislation makes the following revisions to the Independent Adoption Program reforms enacted by Senate Bill (SB) 1148 (Chapter 1353, Statutes of 1992) (Bergeson) during the 1991-92 session and subsequently amended by SB 792 (Chapter 758, Statutes of 1993) (Bergeson) during the 1993-94 session:

- o Provides that where the services of an adoption service provider are not reasonably available, independent counsel to the birth parent may serve as an adoption service provider;
- o Allows for waiver of the normal 10-day waiting period between a birth parent's receipt of advisement and signing of the placement agreement in limited, unusual circumstances;
- o Revises Family Code Section 8814.5 to reduce the time that a birth parent who had signed a placement agreement has to withdraw the consent to 90 days rather than 120 days;
- o Requires that out-of-state birth parents wishing to waive their right to revoke consent must do so in a face-to-face interview with certain specified types of officials in the other state;
- o Clarifies that malpractice or negligence on the part of adoption service providers may be the basis of a cause of action against the licensed individual or agency, but would not be a basis for setting aside the adoption;
- o Provides for a birth parent to sign a waiver of the right to revoke consent before a judicial officer of the court in the event a representative of the California Department of Social Services (CDSS) or delegated county adoption agency is not reasonably available to witness the waiver.

SB 1920 (Lewis), Chapter 827, Statutes of 1994

This legislation allows persons adopting a child, who is in the custody of a California public agency, to claim half of their adoption related costs, to a maximum of \$2,500, as a credit against their State income tax. This credit can be carried over to future years if the credit exceeds the tax liability.

**OFFICE OF CHILD ABUSE PREVENTION**

AB 27X (Speier), Chapter 47X, Statutes of 1994

This legislation provides that any person who, having the care or custody of a child under eight years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury that results in the child's death, shall be punished by imprisonment in the State prison for 15 years to life.

AB 29X (Rainey), Chapter 60X, Statutes 1994

This legislation makes several changes in the laws regarding molest and sexual crimes against minors. The maximum fine is raised to \$10,000. The conditions for probation and exceptions to these conditions are outlined. When probation is granted, the defendant must immediately be placed in a recognized treatment program designed to deal with child molestation and must be removed from the household until a court determines that the best interests of the victim would be served by returning the defendant to the household.

AB74X (Speier), Chapter 19X, Statutes of 1994

This legislation makes minor revisions to domestic violence legislation AB 1652 (Chapter 992, Statutes of 1993, amending Sections 11160-11163.2 of the Penal Code). Both of these statutes relate to requirements that health practitioners report patients' injuries inflicted by weapons or by assaultive or abusive conduct.

Both AB 1652 and its clarifying legislation AB 74X require all health practitioners to report immediately any injuries suspected of being caused by assault, including reporting the perpetrator alleged by the victim.

AB 806 (Gotch), Chapter 495, Statutes of 1994

This legislation adds WIC Section 18966.1(e) and specifies that any monies received by county children's trust funds from private voluntary donations shall not be considered in the allocation of federal funds provided for child abuse prevention grants. This will enable counties to solicit private donations to their local trust funds without jeopardizing the amount of their federal prevention grant.

AB 3760, (Speier), Chapter 1176, Statutes of 1994

This legislation creates a statewide public awareness education campaign concerning the medical dangers associated with shaken baby syndrome, and encourages public and private collaboration in developing and disseminating educational materials on this subject. The legislation requires the CDSS to provide information and prevention-oriented instructional materials on shaken baby syndrome, if available, free of charge to child care providers upon licensure and at the time of a site visit.

In addition, this legislation establishes the Infant Crib Safety Act and, effective January 1, 1995, prohibits commercial users, as defined, from remanufacturing, retrofitting, selling, leasing, or otherwise placing into the stream of commerce full-size or non-full-size cribs, as defined, that are unsafe for any infants using such cribs. The legislation specifies the criteria that are to be used to determine whether a crib is unsafe and establishes misdemeanor penalties for commercial users who, on or after January 1, 1996, willfully and knowingly violate the crib safety provisions of this statute. (Hotels, motels, or similar transient lodging shall not be subject to these misdemeanor penalties until January 1, 1998.) This legislation also encourages public and private collaboration in disseminating materials on crib safety to the general public.

SB 18 (Russell), Chapter 694, Statutes of 1994

Existing law, Section 10901 of the Health and Safety Code (HSC), requires a county to establish protocols between county health departments, county welfare departments, and all public and private hospitals in the county, regarding the assessment of needs of a substance-exposed infant prior to release from the hospital. This legislation requires counties, in preparing their plans to implement the federal Family Preservation and Support Act, to consider providing an in-home assessment of substance-exposed infants after release from the hospital. This legislation further provides that these assessments may be funded through the Family Preservation and Support Program to the extent they are identified in a county's needs assessment and are part of a county's program plan and federal Family Preservation and Support Act funds are available for this purpose.

SB 38X (Kopp), Chapter 49X, Statutes 1994

This legislation provides that in lieu of a trial, a deferred entry of judgment may be made in cases of child molestation or sexual abuse, provided: 1) the prosecuting attorney makes a motion to the court to defer entry of judgment; 2) the defendant pleads guilty to all charges and enhancements; and 3) the defendant is referred to, and completes, a treatment program approved by the prosecuting attorney. Upon the defendant's successful completion of the treatment program, and upon the positive recommendation of the treatment program authority and the motion of the prosecuting attorney, the court shall dismiss the charges against the defendant. The dismissal of charges shall occur no sooner than five years from the date of the defendant's referral to the treatment program.

**CHILD WELFARE SERVICES PROGRAM**

AB 67X (Bowler), Chapter 24X, Statutes of 1994

This legislation permits members of a juvenile justice multidisciplinary team engaged in the prevention, identification, and control of crime, including, but not limited to, criminal street gang activity, to disclose and exchange nonprivileged information and writings to and with one another relating to any incidents of juvenile crime, including criminal street gang activity, that may also be part of a juvenile court record or otherwise designated as confidential.

The legislation states that every member of a juvenile justice multidisciplinary team who receives such information or writings shall be under the same privacy and confidentiality obligations and subject to the same penalties for violating those obligations as the person providing the information or writings. The legislation specifies that the information obtained shall be maintained in a manner which ensures the protection of confidentiality.

AB 875 (McDonald), Chapter 24, Statutes of 1994

Under existing law, at any hearing in which the probation department bears the burden of proof, after the presentation of evidence on behalf of the probation department has been closed, the court, on motion of the minor, parent, or guardian, or on its own motion, is required to order whatever action the law requires of it if, upon weighing all of the evidence then before it, the court finds that the burden of proof has not been met. This legislation provides that the minor may also provide evidence on the minor's behalf before the court orders action.

AB 1013 (Murray), Chapter 159, Statutes of 1994

This legislation requires the juvenile court to inform any minors who are adjudged dependents of the court, of their right under WIC Section 388 to petition the court for a change in the court's orders, including requests for termination of court jurisdiction. The legislation also requires the court to advise adjudicated minors of the availability of the forms necessary for WIC Section 388 petitions.

AB 1082 (Andal, Bowler, Honeycutt, Richter), Chapter 57, Statutes of 1994

This legislation provides that the juvenile court cannot order reunification services in cases where the minor was conceived as a result of a sex offense under Penal Code Section 288 or 288.5 and the parent at issue was the perpetrator of the act(s). This provision would also apply to those cases in which the act was committed outside of California, but the act is the equivalent of a Penal Code Section 288 or 288.5 offense. The court has the option of ordering reunification in these cases when the court finds, by clear and convincing evidence, that such services would be in the minor's best interest.

AB 1579 (Polanco), Chapter 469, Statutes of 1994

This legislation amends WIC Section 309 which pertains to the social worker's responsibility when taking into, and maintaining temporary custody of, without a warrant, a minor. The social worker shall consider whether the child can remain safely in his/her residence. When doing so, the social worker must consider whether a non-offending caretaker can provide for and protect the child from abuse and neglect, and whether the alleged perpetrator voluntarily agrees to withdraw from the residence and is likely to remain withdrawn from the residence. Division 31 regulations will be amended to reflect these additional considerations when taking a minor into temporary custody. It is expected that these regulations will be promulgated by April 1995.

AB 2140 (Honeycutt), Chapter 502, Statutes of 1994

This legislation allows any party involved in a dependency proceeding to ask the juvenile court to remove a social worker from a specific case. The legislation also requires the court to grant the request if the court determines, by a preponderance of evidence, that the social worker's involvement in the case represents a conflict of interest. Examples of conflict of interest situations would include, but not be limited to, the following: (a) the social worker's

sexual contact with any other party involved in the proceeding; (b) the social worker's involvement with any individual who is adopting, or attempting to adopt the child who is the subject of the proceeding and the involvement constitutes a conflict of interest or bias that may compromise the social worker's objectivity; or (c) the social worker has been convicted of perjury during the course of the juvenile court proceeding and the perjury is directly related to the proceeding.

AB 2488 (Bowen), Chapter 1038, Statutes of 1994

This legislation repeals WIC Section 18986.45 and amends WIC Section 18986.46, extending to all counties the authority of members of children's multidisciplinary teams to disclose to one another information and records on a child that are relevant to the treatment and services available to that child through integrated children's services programs. Members of the multidisciplinary team must be trained and qualified in delivering services to children and their families and be assigned by their respective agencies to serve on multidisciplinary teams within integrated children's services programs. The information and records permitted to be shared are limited to what is necessary to formulate an integrated services plan, or to deliver services to children and their families. Team members are subject to state and federal confidentiality laws.

Release of copies of mental health, physical health, and drug or alcohol records is subject to receipt of a release of information form, signed by the child, as permitted by state law, or the child's parent, guardian, legal representative, or court which has jurisdiction over those children who are wards or dependents of the court.

Members of the multidisciplinary team are authorized to establish and maintain a common data base for the purpose of planning and delivering services. The data base may contain demographic data and data on the individual involvement for the children. A memorandum of understanding is required which specifies what types of information may be shared and for what purposes, what information does not require a signed release form, and the process used to ensure that confidentiality is maintained. A team may designate qualified persons to be members of the team on particular cases. These persons are subject to the same confidentiality provisions as other members of the team.

AB 2902 (Conroy), Chapter 1286, Statutes of 1994

Existing law provides that any interested person may file a petition for an order or judgment declaring a child free from the custody and control of either or both parents. Existing law also states that an investigation must be conducted to determine the circumstances of the child and the circumstances which are alleged to bring the child within the provisions which would permit the court to consider the termination of parental rights.

This legislation adds Section 7851.5 to the Family Code and specifies that the petitioner shall be liable for all reasonable costs incurred in connection with the termination of parental rights, including, but not limited to, costs incurred for the required investigation. The liability of a petitioner for costs under this section shall not exceed nine hundred dollars (\$900). The court may defer, waive, or reduce the costs when the payment would cause an

economic hardship which would be detrimental to the welfare of the child. The legislation also specifies that public agencies and nonprofit organizations are exempt from the costs of the investigation.

SB 592 (Russell), Chapter 98, Statutes of 1994

This legislation allows relative and non-relative caretakers to sign, under penalty of perjury, a statutorily prescribed "Caregiver's Authorization Affidavit." The signed form will provide caregivers with consent authority for purposes of meeting the medical and education needs of the children in their care.

This legislation went into effect on June 6, 1994.

SB 783 (Lockyer), Chapter 1073, Statutes of 1994

This legislation clarifies that all parties to dependency proceedings, including the minors who are the subjects of the hearings, are entitled to competent legal representation. Under the provisions of the new law, the Judicial Council will be required to consult with representatives of the California State Bar, county counsels, district attorneys, public defenders, county welfare directors and children's advocacy groups in the development of rules of court for the following: the screening and appointment of competent counsel; minimum standards of experience and education for attorneys wanting to provide representation in dependency hearings; and, procedures for handling client complaints. This legislation also provides that each superior court is required to adopt rules of court regarding procedures for informing the court of any interests of the minor that may need protection in other proceedings and for the development of procedures and time frames for the presentation of contested issues and witness lists.

SB 1358 (Russell), Chapter 461, Statutes of 1994

Under existing law, when a court orders the removal of a dependent child of the juvenile court from the physical custody of his or her parents or guardians, the court shall first determine whether there is a parent of the minor, with whom the minor was not residing at the time that the events or conditions arose that brought the minor within the jurisdiction of the juvenile court, who desires to assume custody of the minor. If such a parent requests custody, the court is required to place the minor with the parent unless it finds that placement with that parent would be detrimental to the minor.

This legislation requires the court to make a finding, in writing or on the record, of the basis for its determination to place a minor with a previously noncustodial parent and its determination to either order that the parent become legal and physical custodian of the child or order that the parent assume custody subject to the supervision of the juvenile court.

SB 1407 (Russell), Chapter 900, Statutes of 1994

This legislation allows the juvenile court to grant guardianships in lieu of, or in addition to, court dependency in situations where the parent does not desire either family maintenance or reunification services, the child agrees to the

guardianship, and the court is satisfied that awarding the guardianship is in the best interest of the child. The court's decision about whether to grant the guardianship will be based on a detailed assessment of both the child and the prospective guardian, including a criminal records check on the prospective guardian to be completed by the supervising agency. This legislation also provides that a termination of the guardianship can be completed in the juvenile court, upon application and after a hearing to determine whether the requested change or termination of court jurisdiction is in the child's best interest.

Eligibility and Assistance Standards Division 45 regulations will be amended to recognize this new authority for establishing legal guardianship.

SB 1909 (Greene), Chapter 969, Statutes of 1994

This legislation provides for a three-year, three-county pilot Family Assessment Intervention and Resource (FAIR) center project, under the direction of the Judicial Council. The purpose of this judicially supervised project will be to test the effectiveness of providing the following to children and their families: community-based prevention, intervention and treatment services in a neighborhood setting; a resource for children whose conduct or condition comes within certain statutory descriptions; a reduction in the need for intensive judicial intervention; a shift in the focus of intervention toward the child and family responsibility and accountability; and, an enhancement of the effectiveness of the judicial system and the role of the juvenile court. In selected pilot counties, social workers and probation officers will be allowed to determine whether a minor and his/her parent or guardian (with the agreement of the minor and parent/guardian) should be diverted from the juvenile court process to a FAIR center for assessment and services.

**AID TO FAMILIES WITH DEPENDENT CHILDREN - FOSTER CARE PROGRAM**

AB 825 (Bates), Chapter 790, Statutes of 1994

This legislation amends the intensive treatment pilot project in effect in the counties of Alameda and Yolo as the result of the passage of SB 2234 (Chapter 1250, Statutes of 1990).

Previously, the WIC required the participating foster family agencies to provide six hours of in-home child/youth counselor hours per week for Pilot Classification Model (PCM) E. As a result of this legislation, the requirement for the provision of in-home child/youth counselors has been deleted for PCM E. However, a memorandum of understanding has been adopted by the CDSS and the participating foster family agencies for the provision of one in-home child/youth counselor to be provided for every 20 children placed in PCM E for the provision of emergency services.

AB 1334 (Gotch), Chapter 950, Statutes of 1994

This legislation revises HSC Section 1502 to include "transitional shelter care facility" (TSCF) as a facility licensed by the CDSS. A TSCF is defined, in



part, as a group care facility for minors, which is owned by the county and operated by the county or a private nonprofit agency under county contract. The Community Care Licensing (CCL) Division will be creating a new licensing category for these facilities.

AB 1377 (Pringle), Chapter 199, Statutes of 1994

This legislation extends provisions of WIC Section 11462.01, relating to seriously emotionally disturbed children placed in Rate Classification Level 13/14 programs, which would otherwise have sunset on June 30, 1994. In addition, group home provider responsibilities in noticing county placing agencies are clarified. Regulations are currently being drafted.

This legislation went into effect on July 18, 1994.

AB 1892 (Polanco), Chapter 1128, Statutes of 1994

This legislation establishes in the WIC conditions regarding the out-of-state placements of seriously emotionally disturbed children placed pursuant to an Individualized Education Program and of WIC Section 601/602 children. An ACL will follow after January 1, 1995.

AB 2693 (Alpert), Chapter 257, Statutes of 1994

This legislation amends Education Code Section 49110 to allow foster parents and residential services providers to provide the written request needed for a minor to receive a work permit. In addition, the legislation modifies Education Code Section 49130 which specifies the conditions under which a full-time work permit may be issued to a child between the ages of 14 and 16. For children residing with a foster care provider or guardian receiving foster care funds, the foster care provider or guardian is required to obtain written authorization from the child's social worker, probation officer or child protective services worker for the child to work. Additionally, the county case worker must document in the child's case plan that the purpose of the employment is to further the goal of emancipation or to enable the child to gain knowledge of necessary work skills, habits and responsibilities. All persons issuing work permits to such children are required to sign a statement that they have received the required authorization from the child's social worker, probation officer or child protective services worker. The legislation also authorizes the issuance of a work permit to a child unable to reside with his or her family and whose earnings are necessary for the support of the minor (e.g., runaways). The CDSS will be reviewing the need to amend regulations and/or policies to implement the provisions of this legislation and will notify counties in the event changes are made.

AB 3010 (Vasconcellos), Chapter 958, Statutes of 1994

This legislation amends WIC Section 11402.5 which concerns the placement of children in public child care institutions (PCCI). Assembly Bill 3010 requires the CDSS to amend the Title IV-E State plan provisions dealing with PCCI if notified by the Federal Government that restrictions on federal matching for AFDC-FC payments no longer exist. The Title IV-E State plan amendment would

authorize federal financial participation in AFDC-FC payments on behalf of a child placed in a PCCI with a capacity exceeding 25 children provided the following requirements are met: (1) it is a temporary shelter care facility; and (2) it has a licensed capacity that does not exceed 200 children, except that Orange County may have a licensed capacity of not more than 236 children. No change in the current PCCI placement policies will be implemented unless the State plan amendment is approved. Counties will be informed if this occurs.

SB 17 (Russell), Chapter 663, Statutes of 1994

This legislation strengthens the State and county efforts to place sibling groups together with the same foster family and to promote sibling visitation if they are not placed with the same family. The legislation requires local agencies to make diligent efforts to maintain sibling togetherness and contact in all out-of-home placements and adds court order and case plan documentation requirements. The legislation also provides the CDSS with permissive authority to establish, through the development of regulations, a supplemental rate to augment the basic foster family rate for the provision of additional shelter needs for AFDC-FC children who are placed in foster care with their siblings. The development of this rate is contingent upon receipt of federal approval of a State plan amendment and the availability of federal funding. An ACL will be issued after January 1, 1995 to summarize the legislation's provisions and explain the two-phase study currently in progress. Division 31 regulations will follow completion of the study, probably in mid-1995.

SB 1773 (McCorquodale), Chapter 546, Statutes of 1994

This legislation amends HSC Section 1506 to specify use conditions of certified homes by foster family agencies. Also, beginning January 1, 1995, social worker qualifications for all new foster family agency hires are revised. The CDSS CCL Division will be preparing regulations.

**FAMILY PRESERVATION AND SUPPORT PROGRAM**

AB 1763 (Bates), Chapter 686, Statutes of 1994

This legislation addresses administrative issues related to AB 1741 (Chapter 951, Statutes of 1993) of the 1993-94 session.

Assembly Bill 1763 authorizes the Secretary of the Health and Welfare Agency or the Secretary of the Youth and Adult Correctional Agency, as appropriate, to approve a request submitted by a county selected as a pilot county pursuant to AB 1741 to implement an alternative method for meeting statutory requirements in one or more of the programs proposed for integration into the county's strategic plan.

AB 3364 (Bates), Chapter 961, Statutes of 1994

The federal Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) created a new program by adding Subpart 2 to Title IV-B of the Social Security Act. Public Law 103-66 provides new federal funds for states to develop or expand a program of family preservation and family support services. In California, this

program is known as the Family Preservation and Support Program (FPSP). Assembly Bill 3364, which went into effect on September 28, 1994 provides statutory authority to implement this program in California. This legislation authorizes the State to "retain and not pass on to the counties up to 15 percent of federal Family Preservation and Support Program funds" and provides a definition of Family Support within the context of this program.

This legislation modifies the conditions under which counties may transfer funds, used to provide family preservation services, from AFDC-FC to child welfare services. A request for transfer must be made "no later than 90 calendar days following the beginning of the fiscal year in which the permanent transfer is to be made or 90 days following the date on which the annual Budget Act is chaptered, whichever is later." The legislation also provides for a retroactive permanent transfer of funds (retroactive to July 1, 1993) if the CDSS determines that a county was adversely impacted by the implementation of Chapter 1006, Statutes of 1993 (AB 776) and the county requested a transfer prior to October 1, 1994.

This legislation describes the role of the CDSS, the county board of supervisors and the county welfare department in the implementation of the FPSP.

Information regarding fiscal claiming has been provided to counties in County Fiscal Letters (CFL) No. 94/95-04 and No. 94/95-21. Additional information regarding programmatic issues/questions will be provided in a forthcoming ACIN.

If you have questions regarding adoptions-related legislation, please contact Joe Murray, Adoptions Policy Bureau, at (916) 323-0467. Questions relating to child abuse prevention legislation should be directed to Kay Ryan, Office of Child Abuse Prevention, at (916) 445-2771. Questions regarding statutes impacting child welfare services should be directed to your Child Welfare Services Operations consultant at (916) 445-2832. Questions regarding Foster Care Program legislation should be directed to the Foster Care Policy Bureau at (916) 445-0813. Questions pertaining to Family Preservation and Support Program legislation should be directed to the Family Preservation Bureau at (916) 445-2871.



MARJORIE KELLY

Deputy Director

Children and Family Services Division

c: County Welfare Directors Association